

REFERENCE TITLE: bailable offenses; bond source hearings.

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1049

Introduced by
Senator Huppenthal

AN ACT

AMENDING SECTION 13-3967, ARIZONA REVISED STATUTES; RELATING TO BAIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-3967, Arizona Revised Statutes, is amended to
3 read:

4 13-3967. Release on bailable offenses before trial: definition

5 A. At ~~his~~ AN appearance before a judicial officer, any person who is
6 charged with a public offense that is bailable as a matter of right shall be
7 ordered released pending trial on ~~his~~ THE PERSON'S own recognizance or on the
8 execution of bail in an amount specified by the judicial officer.

9 B. In determining the method of release or the amount of bail, the
10 judicial officer, on the basis of available information, shall take into
11 account all of the following:

12 1. The views of the victim.

13 2. The nature and circumstances of the offense charged.

14 3. The weight of evidence against the accused.

15 4. The accused's family ties, employment, financial resources,
16 character and mental condition.

17 5. The results of any drug test submitted to the court.

18 6. Whether the accused is using any substance if its possession or use
19 is illegal pursuant to chapter 34 of this title.

20 7. Whether the accused violated section 13-3407, subsection A,
21 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.

22 8. The length of residence in the community.

23 9. The accused's record of arrests and convictions.

24 10. The accused's record of appearance at court proceedings or of
25 flight to avoid prosecution or failure to appear at court proceedings.

26 C. IN CONSIDERING THE CONDITIONS OF RELEASE UNDER SUBSECTION B OF THIS
27 SECTION, THE JUDICIAL OFFICER MAY, ON THE OFFICER'S OWN MOTION, OR SHALL, ON
28 THE MOTION OF THE STATE, CONDUCT AN INQUIRY INTO THE SOURCE OF THE PROPERTY
29 TO BE DEPOSITED AS SECURITY. THE JUDICIAL OFFICER SHALL DECLINE TO ACCEPT
30 THE USE AS SECURITY OF PROPERTY THAT, BECAUSE OF ITS SOURCE, WILL NOT
31 REASONABLY ASSURE THE APPEARANCE OF THE PERSON AS REQUIRED.

32 ~~C.~~ D. If a judicial officer orders the release of a defendant who is
33 charged with a felony either on ~~his~~ THE DEFENDANT'S own recognizance or on
34 bail, the judicial officer shall condition the defendant's release on the
35 defendant's good behavior while so released. On a showing of probable cause
36 that the defendant committed any offense during the period of release, a
37 judicial officer may revoke the defendant's release pursuant to section
38 13-3968.

39 D. E. After providing notice to the victim pursuant to section
40 13-4406, a judicial officer may impose any of the following conditions on a
41 person who is released on ~~his~~ THE PERSON'S own recognizance or on bail:

42 1. Place the person in the custody of a designated person or
43 organization agreeing to supervise ~~him~~ THE PERSON.

44 2. Place restrictions on the person's travel, associates or place of
45 abode during the period of release.

1 3. Require the deposit with the clerk of the court of cash or other
2 security, such deposit to be returned on the performance of the conditions of
3 release.

4 4. Prohibit the person from possessing any dangerous weapon or
5 engaging in certain described activities or indulging in intoxicating liquors
6 or certain drugs.

7 5. Require the person to report regularly to and remain under the
8 supervision of an officer of the court.

9 6. Impose any other conditions deemed reasonably necessary to assure
10 appearance as required including a condition requiring that the person return
11 to custody after specified hours.

12 E. F. In addition to any of the conditions a judicial officer may
13 impose pursuant to subsection D E of this section, the judicial officer
14 shall impose both of the following conditions on a person who is charged with
15 a felony violation of chapter 14 or 35.1 of this title and who is released on
16 his THE PERSON'S own recognizance or on bail:

17 1. Electronic monitoring where available.

18 2. A condition prohibiting the person from having any contact with the
19 victim.

20 F. G. The judicial officer who authorizes the release of the person
21 charged on his THE PERSON'S own recognizance or on bail shall do all of the
22 following:

23 1. Issue an appropriate order containing statements of the conditions
24 imposed.

25 2. Inform the person of the penalties that apply to any violation of
26 the conditions of release.

27 3. Advise the person that a warrant for his THE PERSON'S arrest may be
28 issued immediately on any violation of the conditions of release.

29 G. H. At any time after providing notice to the victim pursuant to
30 section 13-4406, the judicial officer who orders the release of a person on
31 any condition specified in this section or the court in which a prosecution
32 is pending may amend the order to employ additional or different conditions
33 of release, including either an increase or reduction in the amount of bail.
34 On application, the defendant shall be entitled to have the conditions of
35 release reviewed by the judicial officer who imposed them or by the court in
36 which the prosecution is pending. Reasonable notice of the application shall
37 be given to the county attorney and the victim.

38 H. I. Any information that is stated or offered in connection with
39 any order pursuant to this section need not conform to the rules pertaining
40 to admissibility of evidence in a court of law.

41 I. J. This section does not prevent the disposition of any case or
42 class of cases by forfeiture of bail or collateral security if such
43 disposition is authorized by the court.

1 **J.** K. A judicial officer who orders the release of a juvenile who has
2 been transferred to the criminal division of the superior court pursuant to
3 section 8-327 or who has been charged as an adult pursuant to section 13-501
4 shall notify the appropriate school district on the release of the juvenile
5 from custody.

6 **K.** L. For the purposes of this section and section 13-3968, "judicial
7 officer" means any person or court authorized pursuant to the constitution or
8 laws of this state to bail or otherwise release a person before trial or
9 sentencing or pending appeal.